

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. It is not a substitute for the summons and complaint. It is approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil case. (See INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

<b>I. (a) PLAINTIFFS</b> <b>JESSE COMFORT</b>		<b>DEFENDANTS</b> <b>18 3090</b> <b>OCWEN LOAN SERVICING</b> <b>County of Residence of First Listed Plaintiff</b> <b>MONTGOMERY</b> <b>(EXCEPT IN U.S. PLAINTIFF CASES)</b>	
<b>(b) County of Residence of First Listed Plaintiff</b> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i>		<b>County of Residence of First Listed Defendant</b> <b>PALM BEACH</b> <i>(IN U.S. PLAINTIFF CASES ONLY)</i> <b>NOTE IN LAND CONDEMNATION CASES USE THE LOCATION OF THE TRACT OF LAND INVOLVED</b>	
<b>(c) Attorneys (Firm Name, Address, and Telephone Number)</b> <b>FLITTER MILZ, P C</b> <b>450 N NARBERTH AVE., NARBERTH, PA 19072</b> <b>(610) 822 - 0782</b>		<b>Attorneys (If Known)</b>	
<b>II. BASIS OF JURISDICTION</b> <i>(Place an "X" in One Box Only)</i>		<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <i>(Place an "X" in One Box for Plaintiff and One Box for Defendants)</i>	
<input checked="" type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant		<input checked="" type="checkbox"/> PTF <input type="checkbox"/> DEF Citizen of This State <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation	
<input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>		<input type="checkbox"/> 4 <input type="checkbox"/> 4	
<input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>		<input type="checkbox"/> 5 <input type="checkbox"/> 5	
<b>IV. NATURE OF SUIT</b> <i>(Place an "X" in One Box Only)</i>		<a href="#">Click here for Nature of Suit Code Descriptions</a>	
<b>CONTRACT</b>		<b>BANKRUPTCY</b>	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise		<b>PERSONAL INJURY</b>	
<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice		<b>PERSONAL INJURY</b>	
<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending Act <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability		<b>FORFEITURE/PENALTY</b>	
<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other		<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	
<b>REAL PROPERTY</b>		<b>PROPERTY RIGHTS</b>	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property		<b>LABOR</b>	
<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer w/Disabilities - Employment <input type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 448 Education		<b>SOCIAL SECURITY</b>	
<b>CIVIL RIGHTS</b>		<b>IMMIGRATION</b>	
<b>PRISONER PETITIONS</b>		<b>FEDERAL TAX SUITS</b>	
<input type="checkbox"/> 443 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	
<b>V. ORIGIN</b> <i>(Place an "X" in One Box Only)</i>		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS Third Party 26 USC 7609	
<input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court		<input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from Another District (specify) <input type="checkbox"/> 6 Multidistrict Litigation - Transfer <input type="checkbox"/> 7 Consolidated <input type="checkbox"/> 8 Multidistrict Litigation - Direct File	
<b>VI. CAUSE OF ACTION</b>		Cite the U.S. Civil Statute under which you are filing <i>(Do not cite jurisdictional statutes unless diversity)</i> <b>TCPA, 47 U.S.C. § 227</b>	
<b>VII. REQUESTED IN COMPLAINT:</b>		<b>DEMANDS</b> <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.C.P.	
<b>VIII. RELATED CASE(S) IF ANY</b> <i>(See instructions)</i>		<b>CHLCK YES only if demanded in complaint</b> <b>JURY DEMAND:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>DOCKET NUMBER:</b> <b>18 23 2018</b>	
DATE	SIGNATURE OF ATTORNEY OF RECORD		
FOR OFFICE USE ONLY			

RECEIPT #

**AMOUNT**

## APPLYING IFP

JCDG

MAG JUDGE

23 2018

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA  
**CDJ**  
DESIGNATION FORM

18 3090

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff:

1801 Village Green Drive Gilbertsville, PA 19525

Address of Defendant:

1661 Worthington Rd Ste 100 West Palm Beach, FL 33409

Place of Accident, Incident or Transaction:

43 Elaine Drive Boyertown, PA 19512

**RELATED CASE, IF ANY:**

Case Number

Judge

Date Terminated

Civil cases are deemed related when **Yes** is answered to any of the following questions

1	Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
2	Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
3	Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
4	Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

I certify that, to my knowledge, the within case  is /  is not related to any case now pending or within one year previously terminated action in this court except as noted above

DATE

7/18/18

Andrew M. Miller

Attorney-at-Law / Pro Se Plaintiff

207715

Attorney ID # (if applicable)

**CIVIL: (Place a ✓ in one category only)****A. Federal Question Cases:**

1 Indemnity Contract, Marine Contract, and All Other Contracts  
 2 FELA  
 3 Jones Act-Personal Injury  
 4 Antitrust  
 5 Patent  
 6 Labor-Management Relations  
 7 Civil Rights  
 8 Habeas Corpus  
 9 Securities Act(s) Cases  
 10 Social Security Review Cases  
 11 All other Federal Question Cases  
*(Please specify)* TCPA, 47 U.S.C. § 227

**B. Diversity Jurisdiction Cases:**

1 Insurance Contract and Other Contracts  
 2 Airplane Personal Injury  
 3 Assault, Defamation  
 4 Marine Personal Injury  
 5 Motor Vehicle Personal Injury  
 6 Other Personal Injury *(Please specify)* \_\_\_\_\_  
 7 Products Liability  
 8 Products Liability Asbestos  
 9 All other Diversity Cases  
*(Please specify)* \_\_\_\_\_

**ARBITRATION CERTIFICATION***(The effect of this certification is to remove the case from eligibility for arbitration.)*1. Andrew M. Miller

, counsel of record or pro se plaintiff, do hereby certify

207715  
JUL 23 2018

JUL 23 2018

207715

Attorney ID # (if applicable)

 Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs Relief other than monetary damages is sought.

DATE

7/18/18

Attorney-at-Law Pro Se Plaintiff

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38



## APPENDIX I

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

JESSE COMFORT

v.

: CIVIL ACTION

18

3090

OCWEN LOAN SERVICING

: NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus - Cases brought under 28 U.S.C. §2241 through §2255. ( )
- (b) Social Security - Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ( )
- (c) Arbitration - Cases required to be designated for arbitration under Local Civil Rule 33.2. ( )
- (d) Asbestos - Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management - Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases) ( )
- (f) Standard Management - Cases that do not fall into any one of the other tracks. (X)

July 18, 2018

Date

610-822-0781

Telephone

(Civ 660) 10/02

Attorney at Law

610-667-0552

Fax Number

Andrew M. Milz

Attorney for Plaintiff

AMILZ@CONSUMERSLAW.COM

E-Mail Address

JUL 23 2018

CDJ

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

11400  
JESSE COMFORT  
1801 Village Green Drive  
Gilbertsville, PA 19525,  
Plaintiff,  
vs.

OCWEN LOAN SERVICING  
1661 Worthington Rd Ste 100  
West Palm Beach, FL 33409,

Defendant.

CIVIL ACTION

18 3090

NO.

6041 C 32 07/30/2017  
VdUJGJG

**COMPLAINT**

**I. INTRODUCTION**

1. This is an action for damages brought by an individual consumer for violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 (hereinafter "TCPA").
2. The TCPA broadly prohibits any person from placing calls and text messages using an automated telephone dialing system or artificial or prerecorded voice to a cellular phone.
3. Defendants harassed Plaintiff with repeated autodialed collection calls to Plaintiff's cell phone, in violation of the TCPA.

**II. JURISDICTION AND VENUE**

4. This Court has federal question subject matter jurisdiction over Plaintiff's TCPA claims pursuant to 28 U.S.C. § 1331; *Mims v Arrow Fin. Ser., Inc.*, 132 S.Ct. 740 (2012).
5. Venue in this Court is proper in that Plaintiff resides here, the conduct complained of occurred here, and the Defendants transact business here.

**III. PARTIES**

6. Plaintiff Jesse Comfort is a natural person who resides in Gilbertsville, PA at the address captioned.

7. Defendant Ocwen Loan Servicing is a national loan servicing company which regularly conducts business in the Eastern District of Pennsylvania and which has a principal place of business as captioned.

8. Defendant, Ocwen Loan Servicing, LLC is referred to herein as ("Ocwen" or "Defendant").

9. Ocwen at all relevant times was, a "person" as defined by 47 U.S.C. § 153(39).

**IV. STATEMENT OF CLAIM**

10. Plaintiff Jesse Comfort has a cellular telephone which he carries on his person and regularly uses.

11. At all relevant times, his phone was assigned a number for a cellular telephone service Plaintiff used and paid for.

12. Ocwen placed calls to Plaintiff's cellular telephone number in the effort to collect payments for a home mortgage.

13. Ocwen placed over one hundred calls to Plaintiff's cell phone.

14. When answered, there would be a long pause or a recording, consistent with an automated telephone dialing system.

15. It is believed, and therefore averred, that the calls made by Ocwen to Plaintiff's cell phone were made using either an automatic telephone dialing system, as that term is defined in 47 U.S.C. § 227(a)(1), or an artificial or prerecorded voice.

16. Ocwen did not have the "prior express consent" that is required by the TCPA.

17. Plaintiff told Ocwen to stop calling his cell phone, but the calls did not cease.

18. These telephone calls were not made for "emergency purposes," as defined by the Federal Communication Commission in 47 C.F.R. § 64.1200.

19. Notwithstanding Plaintiff's instructions, Defendants continued to place prohibited calls to Plaintiff's cell phone without his prior express consent.

20. Defendants willfully placed these auto-dialed calls to Plaintiff without Plaintiff's consent.

**COUNT I – TELEPHONE CONSUMER PROTECTION ACT**

21. Plaintiff repeats the allegations contained above as if the same were here set forth at length.

22. Defendants have violated the TCPA, 47 U.S.C. § 227 et seq., and its implementing Regulation at 47 C.F.R. § 64.1200 et seq., by making any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice to any telephone number assigned to a cellular telephone service. 47 U.S.C. § 227(b)(1)(A)(iii).

23. Plaintiff is entitled, under the TCPA, to statutory damages of not less than \$500.00 nor more than \$1,500.00 for each autodialed or artificial/pre-recorded telephone call to his cellular phone.

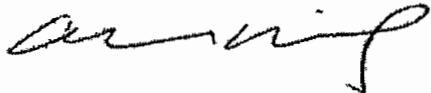
**WHEREFORE**, Plaintiff respectfully requests that judgment be entered against Defendant Ocwen Loan Servicing for the following:

- (a) Statutory damages for each call, pursuant to the TCPA;
- (b) A declaration that Defendant's calls violate the TCPA;
- (c) Such other and further relief as the Court shall deem just and proper.

**V. DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury as to all issues so triable.

Respectfully submitted:



Date: July 18, 2018

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CARY L. FLITTER  
ANDREW M. MILZ  
JODY THOMAS LÓPEZ-JACOBS

**FLITTER MILZ, P.C.**  
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**Attorneys for Plaintiff**